

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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MALIK STEWART, AIWA DANIEL JONES,
Plaintiff,

-against-

19 **CIVIL** 5499 (AJN)

RULE 68 JUDGMENT

CITY OF NEW YORK, Individually and in their,
Capacities as New York City Police Officers,
LORRAINE RAMOS, DAVID CALLAN,
JULIO TAVAREZ, and JOHN or
JANE DOE 1-10,
Defendants.

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Pursuant to Rule 68 of the federal Rules of Civil Procedure, defendants, and any defendant who is currently and subsequently named and thereafter represented by the Office of the Corporation Counsel in this action, hereby offer to allow Plaintiff Malik Stewart to take judgment against the City of New York in this action judgment is entered in favor of plaintiff Malik Stewart as against defendant the City of New York in the amount of \$5,001.00, plus reasonable attorneys' fees, expenses, and costs to the date of this offer of judgment (February 27, 2020) for plaintiff's federal claims.

This judgment shall be in full satisfaction of all federal and state law claims or rights that plaintiff may have to damages, or any other form of relief, arising out of the alleged acts or omissions of defendants or any official, employee, or agent, either past or present, of the City of New York, or any agency thereof, in connection with the facts and circumstances that are the subject of this action.

This offer of judgment may only be accepted by written notice within 14 days after being served.

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This offer of judgment is made for the purposes specified in Rule 68 of the Federal Rules

of Civil Procedure and is not to be construed as an admission of liability. This offer of judgment is made for the purposes specified in Rule 68 of the Federal Rules of Civil Procedure and is not to be construed as an admission of liability by defendants or any Official, employee, or agent of the city of New York, or any agency thereof, nor is an admission that Plaintiff has suffered any damages.

Acceptance of this judgment will act to release and discharge defendants; their successors or assigns; and all past and present officials, employees, representatives, and agents of the City of New York, or any agency thereof, from any and all claims that were or could have been alleged by plaintiff arising out of the facts and circumstances that are the subject of this action.

Acceptance of this offer of judgment also will operate to waive plaintiff's rights to any claim for interest on the amount of the judgment.

Plaintiff Malik Stewart agrees that payment of Five Thousand and One (\$5,001.00) Dollars within ninety (90) days of the date of acceptance of the offer shall be a reasonable time for such payment, unless plaintiff received medical treatment in connection with the underlying claims in this case for which Medicare has provided, or will provide, payment in full or in part. If plaintiff Malik Stewart is a Medicare recipient who received medical treatment in connection with the claims in this case, the ninety (90) day period for payment shall start to run from the date plaintiff submits to counsel for defendant a final demand letter from Medicare.

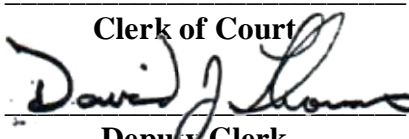
By acceptance of this Rule 68 offer, plaintiff Malik Stewart agrees to resolve any claim that Medicare may have for reimbursement of conditional payments it has made as secondary payer, and a Medicare Set-Aside Trust shall be created, if required by 42 U.S.C. § 1395y(b) and 42 C.F.R. §§ 411.22 through 411.26. Plaintiff Malik Stewart further agrees to hold harmless the defendant and all past and present officials, employees, representatives

and agents of the City of New York, or any agency thereof, regarding any past and/or future Medicare payments, presently known or unknown, made in connection with this matter; on April 1, 2020 plaintiff Malik Stewart through his attorney Samuel C. DePaola, Esq. informed the court that on March 11, 2020 they had accepted Rule 68 Offer of judgment in the amount of \$5,001.00, non-inclusive of costs and attorneys' fees, which are to be negotiated by private settlement of determined by the Court, upon impasse, Plaintiff having requested that the Court direct the Clerk of Court to enter judgment in the amount reflected in the Offer, and the matter having come before the Honorable Alison J. Nathan, United States District Judge,, and the Court on April 22, 2020 having rendered its Order, directing the Clerk of Court to enter judgment in this action in accordance with the Offer of Judgment located at ECF No. 30, it is

ORDERED, ADJUDGED, AND DECREED, that for the reasons stated in the Court Order dated April 22, 2020, plaintiff have judgment in the amount of \$5,001.00, as against the defendant City of New York.

Dated: New York, New York
April 24, 2020

RUBY J. KRAJICK

BY: 
Clerk of Court
Deputy Clerk